

BEFORE THE HUMAN RIGHTS COMMISSION  
OF THE STATE OF MONTANA

\*\*\*\*\*

EDSEL SWENSON,  
Charging Party

HRB CASE NO. 0121015665

-v-

ORDER

CUSTOM TRANSPORT, INC.,  
Respondent

FINAL AGENCY DECISION

\*\*\*\*\*

Charging Party, Edsel Swenson (Swenson), filed a complaint with the Department of Labor and Industry (Department) alleging discrimination in employment on the basis of disability. Following an informal investigation, the Department determined that a preponderance of the evidence did not support Swenson's allegations that Respondent, Custom Transport, Inc., discriminated against Swenson. The Department issued a Notice of Dismissal. Swenson filed an objection with the Montana Human Rights Commission (Commission). The Commission considered the matter on November 15, 2013. Penelope S. Strong appeared and argued on behalf of Swenson. Tanis Holm appeared and argued on behalf of Custom Transport, Inc.

The Commission reviews a decision of the Department to dismiss a complaint using an abuse of discretion standard. *Section 49-2-511(2), MCA*. After careful consideration, the Commission concludes the determination of the Department to dismiss the complaint in this case is not an abuse of discretion.

If a charging party chooses to commence a civil action in district court, the charging party has 90 days after the date this order is issued to file a complaint in district court, in the district where the alleged violation occurred, and seek appropriate relief. *Section 49-2-511(3)(a), MCA*. If a charging party fails to commence a civil action within 90 days, their claims are time barred. *Id.*

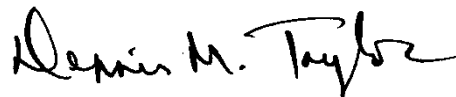
Alternatively, a party may ask a district court to review the decision of the Commission to affirm the dismissal of a complaint. *Sections 2-4-702 and 49-2-511(3)(b), MCA*. This review

must be requested within 30 days of the date of this order. A party must promptly serve copies of a petition for judicial review upon the Human Rights Commission and all parties of record.

*Section 2-4-702(2), MCA.*

IT IS HEREBY ORDERED, that Edsel Swenson's objection is **overruled**. The Commission affirms the determination of the Human Rights Bureau to dismiss the complaint against Custom Transport, Inc..

DATED this 15<sup>th</sup> day of November, 2013.

A handwritten signature in black ink, reading "Dennis M. Taylor". The signature is fluid and cursive, with a horizontal line extending from the end of the name.

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Dennis M. Taylor, Chair  
Human Rights Commission

## CERTIFICATE OF SERVICE

The undersigned secretary for the Human Rights Commission certifies that a true and correct copy of the foregoing ORDER was mailed to the following by U.S. Mail, postage prepaid, on this 15<sup>th</sup> day of November, 2013.

PENELOPE S. STRONG  
PENELOPE S. STRONG LAW FIRM  
2517 MONTANA AVE.  
BILLINGS, MT 59101

TANIS HOLM  
CRIST, KROGH & NORD, LLC  
2708 FIRST AVENUE NORTH, SUITE 300  
BILLINGS, MT 59101

A handwritten signature in black ink that reads "Annah Smith". The signature is written in a cursive, flowing style.

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Annah Smith, Legal Secretary  
Montana Human Rights Bureau